

## **EXHIBIT 1**

### **INTRODUCTION**

Respondent Priya Mathur (“Mathur”) was a first-time successful candidate for the Public Agency Member Seat on the Public Employees’ Retirement System’s Board of Administration (“CalPERS Board”) in the 2002 election. Respondent Friends of Priya Mathur (“Committee”) was a committee controlled by Respondent Mathur. Respondent Mathur also served as the Committee’s treasurer.

The Political Reform Act (the “Act”)<sup>1</sup> requires candidates for the CalPERS Board to file campaign statements disclosing the contributions that they receive and the expenditures that they make. In this matter, Respondents failed to file two required campaign reports. The Act also requires each CalPERS Board member to file an annual statement of economic interests each year, disclosing his or her reportable economic interests held during the preceding calendar year. In this matter Respondent Mathur failed to timely file a 2002 annual statement of economic interests.

For the purposes of this Stipulation, Respondents’ violations are stated as follows:

- COUNT 1:** Respondents Priya Mathur and Friends of Priya Mathur failed to timely file a pre-election campaign statement by the October 8, 2002 due date in violation of section 84225, subdivision (c) of the Government Code.
- COUNT 2:** Respondents Priya Mathur and Friends of Priya Mathur failed to timely file a post-election campaign statement by the January 10, 2003 due date in violation of section 84225, subdivision (c) of the Government Code.
- COUNT 3:** As a public official who manages public investments, Respondent Priya Mathur failed to timely file a 2002 annual statement of economic interests by the March 3, 2003 due date, in violation of section 87203 of the Government Code.

### **SUMMARY OF THE LAW**

#### **Duty To File Campaign Statements**

An express purpose of the Act, as set forth in section 81002, subdivision (a), is to ensure that receipts and expenditures in election campaigns are fully and truthfully disclosed, so that voters may be fully informed, and improper practices may be inhibited. The Act therefore establishes a campaign reporting system designed to accomplish this purpose of disclosure.

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<sup>1</sup> The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18109 through 18997 of title 2 of the California Code of Regulations. All regulatory references are to title 2, division 6 of the California Code of Regulations, unless otherwise indicated.

Section 82013, subdivision (a) defines a “committee” as any person or combination of persons who directly or indirectly receives contributions totaling \$1,000 or more in a calendar year. This type of committee is commonly referred to as a “recipient” committee. Under section 82016, subdivision (a), a recipient committee that is controlled directly or indirectly by a candidate is a “controlled committee.”

Campaign reporting for candidates for the CalPERS Board is governed by section 84225 and regulation 18452. Section 84225, subdivision (c) requires candidates for the CalPERS Board to “file campaign statements with the Secretary of State no later than two days before the beginning of the ballot period, as determined by the board, for the period ending five days before the beginning of the ballot period, and no later than January 10, for the period ending December 31.” For the 2002 election, the ballot period commenced October 10, 2002. Accordingly, the first campaign statement for 2002 was required to be filed no later than October 8, 2002, and the second was due no later than January 10, 2002. Original campaign statements, which are public record, must be filed with the Secretary of State and a copy is required to be retained at the CalPERS Board’s office in Sacramento. (Section 84225, subd. (c)(2).)

### **Duty to File Statements of Economic Interests**

An express purpose of the Act, as set forth in section 81002, subdivision (c), is to ensure that the assets and income of public officials, which may be materially affected by their official actions, be disclosed, so that conflicts of interest may be avoided.

In furtherance of this purpose, section 87200 specifies that the disclosure requirements of section 87200, *et seq.*, are applicable to certain officeholders, including, but not limited to, public officials who manage public investments. A CalPERS Board member is considered a public official who manages public investments. (See regulation 18701, subd. (b)(1)(A).) In general, a newly elected state officer is required to file an assuming office statement within 30 days of assuming office. (Section 87202, subd. (a).) However, if the officeholder assumes office in December or January, he or she is not required to file an assuming office statement, and instead must file an annual statement. (Sections 87202, subd. (b) and 87203.)

Section 87203 requires that all officeholders specified in section 87200 file an annual statement of economic interests each year, disclosing their reportable investments, business positions, and interests in real property held on, and income received during the preceding calendar year. For a CalPERS Board member, the date for filing an annual statement of economic interests is March 1st, or the next business day after March 1st, if March 1st falls on a Saturday, Sunday, or official holiday. (Regulations 18723, subd. (b)(1) and 18116.) The statement must include all of the reportable economic interests held by the CalPERS Board member during the preceding calendar year. (Regulation 18723, subd. (a).)

## **SUMMARY OF THE FACTS**

## **Introduction**

Respondent Mathur was a first-time successful candidate for the CalPERS Board in the November 29, 2002 election. Respondent Mathur's current term expires January 15, 2007. Respondent Mathur filed a statement of intention for that office on July 31, 2002. On the same day, she filed a statement of organization for her controlled committee, the Respondent Committee in this matter, designating herself as the treasurer.

Because Respondent Mathur was a candidate for an elected seat on the CalPERS Board, Respondents were required to file two campaign statements. Additionally, as a public official who manages public investments, Respondent Mathur was required to file an annual statement of economic interests.

The investigation of this matter arose as a result of the audit program set forth in section 90000, et seq. During the selection process for CalPERS Board members, Respondents' failure to file the required campaign statements was discovered, and as result, a discretionary audit was conducted pursuant to section 90003.

In this matter, Respondents failed to timely file two campaign statements, and Respondent Mathur failed to timely file her annual statement of economic interests.

## **Counts 1-2**

### **Failure to Timely File Campaign Statements**

As a candidate for the CalPERS Board in the 2002 election, Respondent Mathur and her controlled committee, the Respondent Committee, were required to file a pre-election campaign statement and a post-election campaign statement. The pre-election statement was due no later than October 8, 2002, and the post-election statement no later than January 10, 2002. The original campaign statements, a public record, were required to be filed by Respondents with the Secretary of State, with a copy retained at the CalPERS Board's office in Sacramento.

Candidates in the 2002 CalPERS election were initially notified of their filing requirements when they submitted their nomination papers. At that time, CalPERS provided Respondent Mathur with the form (Form 900) for filing the campaign statements. On August 22, 2002, CalPERS sent supplemental information to Respondent Mathur clarifying the campaign statement periods and filing deadlines.

On October 16, 2002, Felecia Wimberley, CalPERS filing official, sent a notice to Respondent Mathur, advising her that her candidate campaign statement, the Form 900, was past due, and requesting that she file the delinquent statement immediately.

On November 1, 2002, Ms. Wimberley sent a second notice to Respondent Mathur, advising her that her candidate campaign statement, the Form 900, still had not been received, and requesting that she file the delinquent statement immediately.

Finally, on December 12, 2003, after being notified of the impending audit, Respondents

filed one statement at the CalPERS Board's office for the period January 1, 2002 through December 31, 2002, disclosing receipts totaling \$17,865 and expenditures totaling \$8,617.

By failing to timely file a pre-election campaign statement by October 8, 2002 and a post-election campaign statement by January 10, 2002, Respondents committed two violations of the Act.

### **Count 3**

#### **Failure to Timely File a 2003 Annual Statement of Economic Interests**

After assuming office as a member of the CalPERS Board in January of 2003, Respondent Mathur was required to file an annual statement of economic interests by March 3, 2003.

On January 15, 2003, Laura Mattley, CalPERS filing official, sent Respondent Mathur a letter informing Respondent Mathur of her duty to file a statement of economic interests.

On March 27, 2003, Emily Bowden, Staff Services Analyst, Technical Assistance Division, sent Respondent Mathur a letter advising her that her 2002 statement of economic interests was past due, and requesting that the statement be filed as soon as possible.

On May 7, 2003, Ms. Bowden sent a second letter to Respondent, advising her that her 2002 statement of economic interests remained past due, and requesting the statement be filed within ten days. The letter further advised Respondent that if the delinquent statement was not received within ten days, the matter would be referred to the FPPC's Enforcement Division. When Respondent failed to file a 2002 statement as requested, on August 4, 2003, Dixie Howard, Manager, Filing Officer Programs, Technical Assistance Division, referred the matter to the Enforcement Division, and sent a letter dated August 15, 2003, reminding Respondent Mathur that her statement of economic interests remained outstanding.

According to investigative records of the FPPC, on August 21, 2002, Wayne Imberi, Political Reform Consultant II, Enforcement Division, spoke to Respondent Mathur by telephone and asked her to file her delinquent statement of economic interests. After being contacted by the Enforcement Division, Respondent Mathur then filed her 2002 annual statement of economic interests on August 22, 2003, the next day.

By failing to timely file a 2002 annual statement of economic interests by the March 1, 2003 due date, Respondent violated section 87203.

### **CONCLUSION**

This matter consists of two counts of failing to timely file campaign statements in

violation of section 84225, and one count of failing to timely file an annual statement of economic interests in violation of section 87203. These violations carry a maximum administrative penalty of Fifteen Thousand Dollars (\$15,000).

With respect to the campaign statement violations, to date, there has never been an enforcement action pursuant to section 84225. Section 84225 went into effect January 1, 1999 and applies exclusively to candidates for the CalPERS Board. However, these violations are not substantively different than a violation for failing to timely file a typical campaign statement. Members of the CalPERS Board are responsible for the management and control of CalPERS, including the exclusive control of the administration and investment of the retirement fund. For an official who will manage public investments of this magnitude, the public's right to be informed (section 81002, subd. (b)) is of great importance so that potential sources of influence that may affect decisionmaking can be identified.

Respondents received four notices regarding the duty to file campaign statements. Despite the notices, Respondents filed the campaign statements over a year after the election, and then only with the CalPERS Board's office and not with the Secretary of State as was additionally required. In mitigation, Respondents raised and spent a relatively modest amount.

Regarding Count 1, the administrative penalty for failing to timely file a pre-election campaign statement has typically been in the mid-to-high end of the applicable penalty range. By analogy, this fine range is appropriate for the violations committed in this case. Therefore, an administrative penalty in the mid-to-high range of \$3,250 is appropriate for this violation.

Regarding Count 2, the administrative penalty for failing to timely file a post-election semi-annual campaign statement has typically been in the middle of the applicable penalty range. Again, by analogy, this fine range is appropriate for the violations committed in this case. Therefore, an administrative penalty in the middle of the range of \$2,500 is appropriate for this violation.

Under the SEI Expedited Procedures adopted by the Commission in July 1999, the approved administrative penalty for an individual who files a delinquent statement of economic interests within 30 days of being contacted by the Enforcement Division is Two Hundred Fifty Dollars (\$250).

Accordingly, the facts of this case justify imposition of a total administrative penalty of Six Thousand Dollars (\$6,000).